

Addendum B

Addendum B: IBM's Objections to SCO's Alleged Evidence

Subject Matter of Evidence	Illustrative Exhibits ¹	Objection(s)
Statements of alleged fact lacking evidentiary support. (SCO U.C. Br. ¶¶ 25, 36, 49.)	None.	No foundation.
Statements that SCO was not aware of certain alleged conduct or decisions by IBM, such as IBM's inclusion of SVr4 code in AIX and IBM's intent to decline assignment of the JDA. (SCO U.C. Br. ¶¶ 25-35.)	SCO Ex. 6, SCO Ex. 17, SCO Ex. 269, SCO Ex. 351, SCO Ex. 354, SCO Ex. 356, SCO Ex. 362.	No foundation or personal knowledge; Irrelevant.
Extrinsic evidence of the parties' respective rights under the JDA. (SCO U.C. Br. ¶¶ 21, 41(b)&(c), 43(b), 44(a) & (b), 45, 47(b)-(e), 57.)	SCO Ex. 17, SCO Ex. 35, SCO Ex. 88, SCO Ex. 94, SCO Ex. 96, SCO Ex. 198, SCO Ex. 219, SCO Ex. 221, SCO Ex. 227, SCO Ex. 230, SCO Ex. 239, SCO Ex. 296, SCO Ex. 297, SCO Ex. 298, SCO Ex. 354, SCO Ex. 371.	Irrelevant.

¹ Nearly all of SCO's factual assertions, along with its alleged evidence, relate to SCO's claim that IBM breached a fiduciary duty that allegedly arose from Project Monterey. As demonstrated in IBM's accompanying Memorandum of Law in Further Support of Its Motion For Summary Judgment on SCO's Unfair Competition Claim (SCO's Sixth Cause of Action), SCO's fiduciary duty allegations cannot support a claim for unfair competition and are, therefore, irrelevant. For the Court's convenience, IBM hereby objects to the relevance of all evidence cited by SCO in support of its fiduciary duty allegations, and focuses above on particular illustrative evidence that is inadmissible for additional reasons.